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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,843	09/15/2003	Richard Braunstein		1192

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EXAMINER

KAUFMAN, JOSEPH A

ART UNIT PAPER NUMBER

3754

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/662,843	BRAUNSTEIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph A. Kaufman	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool (US 4,240,568) in view of Balson (US 5,161,689).

Referring to claim 1, Pool discloses a pour spout to assist in pouring a liquid from a container including a body having a top (fig 16) opening circumscribed by a rim channel for holding a lid covering the top opening (fig 16), an inner rim inward of the rim channel (72, fig 7), and an outer rim (77, fig 8) outward of the rim channel, the pour spout comprising:

a generally horizontally extending channel cover (113, fig 11) for covering the rim channel after a lid (21, fig 1) covering the top opening is removed from the rim channel, thereby to prevent liquid from dripping into the rim (col 2, lines 19-26) channel after the liquid is removed from the container,

an outer flange (83, fig 8) extending downwardly of the channel cover, the outer flange being adapted to extend exteriorly of the outer rim, and

a liquid control through (along the edge of 110, fig 16) extending generally vertically (fig 16, 17, the inner edge extending vertically) as and upwardly of the channel cover according to claim 1, but does not disclose a locking flange extending downward of the channel cover, the locking flange being adapted to extend downwardly adjacent the inner rim interiorly thereof. Balson discloses a locking flange extending downward of the channel cover, the locking flange being adapted to extend downwardly adjacent the inner rim in order to seal the lid on the can

It would have been obvious to one of ordinary skill in art to have included a locking flange extending downward of the channel cover, the locking flange being adapted to extend downwardly adjacent the inner rim of Balson in the pour spout assembly of Pool in order to seal the lid on the can as taught by Balson.

Referring to claim 2, Pool further discloses the pour spout comprising a flexible and resilient plastic material (col 5, line 29).

Referring to claim 3, Pool further discloses the flexible and resilient plastic material comprises polypropylene (col 5, line 29).

Referring to claim 5, Pool discloses an outer flange but does not disclose the outer flange is tapered to a reduced thickness at a free end spaced from the channel

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cover, it would have been obvious to one of ordinary skill in the art to have designed the outer flange to the desired thickness necessary.

Referring to claim 6, Pool discloses the pour spout according to claim 6, but does not disclose a pour spout where the locking flange comprises a curved inner rim lock for snapping into engagement with the inner rim. Balson further discloses a locking flange comprising a curved inner rim lock for snapping into engagement with the inner rim in order to seal the lid on the can.

It would have been obvious for one of ordinary skill in the art to have included a curved rim lock (16) for snapping into engagement with the inner in the pour spout of Pool in order to seal the can on the lid as further taught by Balson.

Referring to claim 7, Pool further discloses the outer flange further comprises an upper flange (28) extending upwardly of the channel cover (fig. 1).

Referring to claim 8, it would have been obvious to one of ordinary skill in the art to construct an upper flange which is tapered to reduced thickness at a free end if necessary in order to snap close the channel cover.

Referring to claim 9, Pool further discloses a generally vertical (fig 16, ~~157~~) liquid control trough comprises a convex exterior surface (fig 17, 158).

Referring to claim 10, Pool further discloses a pour spout further comprises a drip lip (124, fig 11) extending exteriorly of said generally vertical convex exterior and upwardly of at least a portion of the cover, the drip lip preventing liquid poured from the container from being transferred onto the convex exterior surface (col 7, lines 44-48).

Referring to claim 11, Pool further discloses a convex exterior surface but does not disclose the pour spout to displays graphic matter, it would have been obvious to one of ordinary skill in the art to use the extra space in the pour spout to display graphic matter for vendor advertising purposes.

Referring to claim 16, Pool further discloses a brush wipe bar (170) extending inwardly of the channel cover, the brush wipe being located at a position along the channel cover not occupied by the pour trough or the pull tab (Fig 16), it would have been obvious to one of ordinary skill in the art to shape the brush wipe bar in a curved manner if needed for product design requirements.

3. Claims 12-14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool (US 4,240,568) in view of Balson (US 5, 161,689) as applied to claim 1 and in further view of Mueller, Jr. et al (US 4,811,865).

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Pool and Balson in combination have taught all the features of the claimed invention except the pour spout is inverted over the top opening, the upper flange and the liquid control trough extend downwardly of the outer rim adjacent the container body and outer flange extending upwardly of the outer rim. Mueller, Jr. et al further discloses the pour spout is inverted over the top opening, the upper flange and the liquid control trough extend downwardly of the outer rim adjacent to an exterior of the container body outer flange extending upwardly of the outer rim and outer flange extending upwardly of the outer rim in order for efficient storage.

It would have been obvious to one of ordinary skill in the art to have included the inverted pour spout (13) over the top opening (Fig 2), the upper flange and the liquid control trough (29) extend down of the outer rim (2, fig 2) in the container body (1) and outer flange (8, fig 2) extending upwardly of the outer rim of Mueller, Jr. et al in the pour spout assembly of Pool and Balson in order to provide efficient storage as taught by Mueller, Jr. et al.

Referring to claims 14 and 21, Pool discloses a pour spout assembly and Mueller, Jr. et al discloses the inverted spout according to claim 14, but does not disclose a stacking spacer adjacent the outer flange and having greater thickness than the channel cover, and stacking spacer evenly distributing weight of a second container stacked over the container. Balson further discloses a stacking spacer adjacent the outer flange and having greater thickness than channel cover, and stacking spacer

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evenly distributing weight of a second container stacked over the container in order to allow stacking of multiple cans.

It would have been obvious to one of ordinary skill in the art to have included a stacking spacer (30, fig 1, spacer 30 has a horizontal component) adjacent the outer flange (40, fig 1) and having greater thickness than channel cover (21, fig 11b), and stacking spacer evenly distributing weight (figs 3 and 4) of a second container stacked over the container in order to allow stacking of multiple cans as further taught by Balson.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool (US 4,240,568) in view of Balson (US 5, 161,689) as applied to claim 1 and in further view of Simon (US D 369,975).

Referring to claim 15, Pool discloses a pour spout according to claim 15 but does not disclose a pull tab comprising a web extending radially inward of the channel cover, opposite liquid control trough. Simon discloses a pull tab comprising a web extending inward of a the channel cover in order to remove the channel cover from the container rim.

It would have been obvious to one of ordinary skill in the art to have included a pull tab comprising a web extending inward of the channel cover in the pour spout of Pool and Balson (US 5, 161,689) as applied in claim 1, and in further view of Holben (US 4, 728,260) for the above noted reason.



5. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool (US 4,240,568) in view of Balson (US 5, 161,689) as applied to claim 1 and in further view of Holben (US 4,784,260).

Pool and Balson in combination have taught all the features of the claimed invention except a carrier for a plurality of cylindrical containers, the carrier comprising a plurality of pour spouts each the pour spouts being attached to at least one adjacent pour spout by a connector integrally formed therewith. Holben discloses an article carrier for a plurality of cylindrical containers, the carrier comprising a plurality of nozzles being combined by a web connector, the nozzles pour spouts being attached to at least one adjacent nozzle by a connector integrally formed therewith in order allow for attaching multiple spouts for easy shipment.

It would have been obvious to one of ordinary skill in the art to connect the pour spouts of Pool and Balson by a connector integrally instead of the nozzles (figure 8) as taught by Holben in order to allow for carrying multiple spouts for easy shipment.

Referring to claim 18, Pool discloses a pour spout assembly according to claim 18, but does not disclose a connector that is sufficiently thin to facilitate separation of the pour spouts via a knife, scissors, or tearing. Holben shows interconnecting webs can be separated from the nozzle either by twisting off or by use of scissors or a knife in order to separate the articles.

It would have been obvious to one of ordinary skill in the art to use an interconnecting web in the article carrier to connect articles such as nozzles or spouts together, where the articles in the interconnecting webs can be separated either by twisting off or by use of scissors or a knife on the web loops of Holben in the pour spout assembly of Pool in order to separate the articles as taught by Holben.

Referring to claim 19, Pool discloses a pour spout assembly according to claim 19, but does not disclose a carrier comprising a stir paddle integrally formed with the pour spouts. Holben discloses in figure 8, a connecting web used to connect articles which is identical to the applicant's figure 13

It would have been obvious to one of ordinary skill in the art to have replaced the web (46) and replace it with that of a stir paddle integrally formed with the pour spouts as shown by Holben in the pour spout assembly of Pool in order to allow the article carrier to also carry a stir paddle with the spouts as taught by Holben.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool (US 4,240,568) in view of Balson (US 5, 161,689) and Holben (US 4,784,260) as applied to claims 1 & 19 and in further view of Stiffler (US 4,083,653)

Pool and Balson in combination have taught all the features of the claimed invention except a carrier wherein the pour spout carrier includes a shaft and a plurality of blades extending radially outwardly of the shaft, the shaft being suitable for

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connection with an electric drill in order to mix paint or other liquid. Holben discloses in figure 8, an article carrier for nozzles in which a stir paddle can be integrated instead of the web (46), and further Stiffler discloses a includes a shaft and a plurality of blades extending radially outwardly (fig 4) of the shaft, the shaft being suitable for connection with an electric drill (fig 7) in order to mix paint or other liquid in order to allow for the carrier to carry spouts as well as a stir paddle which it can be used to mix the paint.

It would have been obvious to one of ordinary skill in the art to have integrated a stir paddle instead of the interconnecting web in article carrier (fig 8) of Holben and incorporated it in the pour spout assembly of Pool. Further it would have been obvious to have included a shaft (fig 4) and a plurality of blades extending radially outwardly (fig 4) of the shaft, the shaft being suitable for connection with an electric drill (fig 7) in order to mix paint as disclosed by Stiffler in the article carrier of Holben in order to allow for the carrier to carry spouts as well as a stir paddle which can be used to mix the paint.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-3 and 5-21 have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph A. Kaufman  
Primary Examiner  
Art Unit 3754  
3/23/06

jak  
March 23, 2006